

provide for home or community-based services under §§ 440.180 or 440.181, the services provided under the waiver need not be comparable for all individuals within a group.

(l) If the agency imposes cost sharing on beneficiaries in accordance with 447.53, the imposition of cost sharing on an individual who is not exempted by one of the conditions in section 447.53(b) shall not require the State to impose copayments on an individual who is eligible for such exemption.

(m) Eligible legalized aliens who are not in the exempt groups described in §§ 435.406(a) and 436.406(a), and considered categorically needy or medically needy must be furnished only emergency services (as defined in § 440.255), and services for pregnant women as defined in section 1916(a)(2)(B) of the Social Security Act for 5 years from the date the alien is granted lawful temporary resident status.

(n) Aliens who are not lawful permanent residents, permanently residing in the United States under color of law, or granted lawful status under section 245A, 210 or 210A of the Immigration and Nationality Act, who, otherwise meet the eligibility requirements of the State plan (except for receipt of AFDC, SSI or a State Supplementary payment) must be furnished only those services necessary to treat an emergency medical condition of the alien as defined in § 440.255(c).

(o) If the agency makes respiratory care services available under § 440.185, the services need not be made available in equal amount, duration, and scope to any individual not eligible for coverage under that section. However, the services must be made available in equal amount, duration, and scope to all individuals eligible for coverage under that section.

(p) A State may provide a greater amount, duration, or scope of services to pregnant women than it provides under its plan to other individuals who are eligible for Medicaid, under the following conditions:

(1) These services must be pregnancy-related or related to any other condition which may complicate pregnancy, as defined in § 440.210(a)(2) of this subpart; and

(2) These services must be provided in equal amount, duration, and scope to all pregnant women covered under the State plan.

(q) [Reserved]

(r) If specified in the plan, targeted case management services may be limited to the following:

(1) Certain geographic areas within a State, without regard to the statewide requirements in § 431.50 of this chapter.

(2) Targeted groups specified by the State.

[43 FR 45224, Sept. 29, 1978, as amended at 45 FR 24889, Apr. 11, 1980; 46 FR 48541, Oct. 1, 1981; 48 FR 5735, Jan. 8, 1983; 51 FR 22041, June 17, 1986; 55 FR 36822, Sept. 7, 1990; 56 FR 24011, May 28, 1991; 57 FR 29156, June 30, 1992; 58 FR 4939, Jan. 19, 1993; 59 FR 37717, July 25, 1994; 72 FR 68092, Dec. 4, 2007]

#### **§ 440.255 Limited services available to certain aliens.**

(a) *FFP for services.* FFP is available for services provided to aliens described in this section which are necessary to treat an emergency medical condition as defined in paragraphs (b)(1) and (c) or services for pregnant women described in paragraph (b)(2).

(b) *Legalized aliens eligible only for emergency services and services for pregnant women.* Aliens granted lawful temporary resident status, or lawful permanent resident status under sections 245A, 210 or 210A of the Immigration and Nationality Act, who are not in one of the exempt groups described in §§ 435.406(a)(3) and 436.406(a)(3) and who meet all other requirements for Medicaid will be eligible for the following services—

(1) Emergency services required after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

(i) Placing the patient's health in serious jeopardy;

(ii) Serious impairment to bodily functions; or

(iii) Serious dysfunction of any bodily organ or part.

(2) Services for pregnant women which are included in the approved State plan. These services include routine prenatal care, labor and delivery, and routine post-partum care. States,

#### § 440.260

at their option, may provide additional plan services for the treatment of conditions which may complicate the pregnancy or delivery.

(c) Effective January 1, 1987, aliens who are not lawfully admitted for permanent residence in the United States or permanently residing in the United States under the color of law must receive the services necessary to treat the condition defined in paragraph (1) of this section if—

(1) The alien has, after sudden onset, a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- (i) Placing the patient's health in serious jeopardy;
- (ii) Serious impairment to bodily functions; or
- (iii) Serious dysfunction of any bodily organ or part, and

(2) The alien otherwise meets the requirements in §§ 435.406(c) and 436.406(c) of this subpart.

[55 FR 36823, Sept. 7, 1990; 56 FR 10807, Mar. 14, 1991]

#### § 440.260 Methods and standards to assure quality of services.

The plan must include a description of methods and standards used to assure that services are of high quality.

#### § 440.270 Religious objections.

(a) Except as specified in paragraph (b) of this section, the agency may not require any individual to undergo any medical service, diagnosis, or treatment or to accept any other health service provided under the plan if the individual objects, or in the case of a child, a parent or guardian objects, on religious grounds.

(b) If a physical examination is necessary to establish eligibility based on disability or blindness, the agency may not find an individual eligible for Medicaid unless he undergoes the examination.

#### 42 CFR Ch. IV (10–1–13 Edition)

### Subpart C—Benchmark Benefit and Benchmark-Equivalent Coverage

SOURCE: 75 FR 23101, April 30, 2010 unless otherwise noted.

#### § 440.300 Basis.

This subpart implements section 1937 of the Act, which authorizes States to provide for medical assistance to one or more groups of Medicaid-eligible individuals, specified by the State under an approved State plan amendment, through enrollment in coverage that provides benchmark or benchmark-equivalent health care benefit coverage.

#### § 440.305 Scope.

(a) *General.* This subpart sets out requirements for States that elect to provide medical assistance to certain Medicaid eligible individuals within one or more groups of individuals specified by the State, through enrollment of the individuals in coverage, identified as “benchmark” or “benchmark-equivalent.”

(b) *Limitations.* A State may only apply the option in paragraph (a) of this section for an individual whose eligibility is based on an eligibility category under section 1905(a) of the Act that could have been covered under the State's plan on or before February 8, 2006.

(c) A State may not require but may offer enrollment in benchmark or benchmark-equivalent coverage to the Medicaid eligible individuals listed in § 440.315. States allowing individuals to voluntarily enroll must be in compliance with the rules specified at § 440.320.

(d) Prior to submitting to the Centers for Medicare and Medicaid Services for approval a State plan amendment to establish a benchmark or benchmark-equivalent benefit plan or an amendment to substantially modify an existing benchmark or benchmark-equivalent benefit plan, a State must have provided the public with advance notice of the amendment and reasonable opportunity to comment with respect to such amendment, and have included in the notice a description of